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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/592,393 | 06/13/2000 | William Keith Chandler | CNA-018-DIV | 7087 |

7590 08/29/2002
Ciena Corporation
Legal Department
1201 Winterson Road
Linthicum, MD 21090

EXAMINER

CHERRY, EUNCHA P

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2872

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/592,393

Applicant(s)

CHANDLER ET AL.

Examiner

EUNCHA P. CHERRY

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8,9,11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) 2-6,8,9 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group III in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the applicants disagree with the examiner's grouping of the claims and characterization of the subject matter to which the claims are drawn. This is not found persuasive because the applicants did not distinctly and specifically point out the supposed errors in the restriction requirement.

2. Claims 2-6, 8, 9 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

Regarding claim 2, applicants are directed to page 3 of the restriction requirement, where claim 2 is pointed out as a linking claim for group I and II, but not for group III. Therefore, claim 2 is not treated on the merit.

Regarding claim 14, applicants have not changed the dependency of this claim. This claim is still depending from the canceled claim. Therefore, claim 10 is not treated on the merit.

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The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 13 is rejected under 35 U.S.C. 102(e) as being anticipated by Teichman et al.

Teichman et al discloses an apparatus for inspecting an optical device on an optical module (Figs. 1a-1f), comprising:
an optical platform (19);

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an inspection station disposed along a top surface of the optical platform (14) having an optical device interface located a fixed distance above the top surface of the optical platform (22, 23);

an optical module carrier (13) for holding the optical module (12a) and conveying the optical module along the top surface of the optical platform to the inspection station (column 3, lines 36-65), the optical module carrier positioning the optical device at a distance above the optical platform corresponding to the fixed distance the optical device interface is located above the top surface (column 3, lines 41-47), wherein the optical module carrier further comprises:

a tray (13) having a top surface for supporting the optical module (see Fig. 1b); and

a plurality of rollers for conveying the tray (two elements guided along 16), the rollers each mounted in a bottom surface of the tray, each of the rollers extending a fixed distance below the bottom surface of the tray (see Fig. 1a).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teichman et al in view of Davis et al.

Teichman et al discloses the claimed invention as set forth above except that the platform is coated with silicone based coating. Davis et al discloses the platform that is coated with the silicon based coating (column 6, lines 36-41). It would have been obvious to one of ordinary skill in the art to coat the platform with silicone based coating for the purpose of increasing friction between the element and the platform so that the element can be stay on the platform without slipping off.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teichman et al in view of Nowicki.

Teichman et al discloses the claimed invention as set forth above except the rollers have springs. Nowicki discloses spring for a roller (column 2, lines 9-15). It would have been obvious to one of ordinary skill in the art to add a spring for a roller for the purpose of limiting a movement of a roller along the guide rail.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUNCHA P. CHERRY whose telephone number is 703-305-0997. The examiner can normally be reached on M-F 6:30-4:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CASSANDRA SPYROU can be reached on 703-308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Euncha Cherry
August 26, 2002

A handwritten signature in black ink, appearing to read 'Euncha Cherry', with a large, stylized loop at the bottom.